

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

NOTICE TO NON-ACCUSED PARENT WHO IS A HOUSEHOLD MEMBER

PLEASE READ CAREFULLY AND BRING TO THE COURT HEARINGS

I. ABUSE AND/OR NEGLECT PETITION FILED AND COURT HEARING SCHEDULED

A petition has been filed alleging that your child(ren) has(have) been abused and/or neglected. As a result of the petition, **the Court has scheduled a hearing, the date and time of which are provided on the bottom of the petition.** You should plan to attend this hearing and all future Court hearings because orders issued by the Court may directly affect you as well as your child(ren).

Please remember the seriousness of the petition that has been filed. If the judge determines that there is evidence that you have abused and/or neglected your child(ren), the judge's orders will affect you and your child(ren). This includes, but is not limited to, the possibility that the judge may award **protective supervision** or **legal custody** to the Division for Children, Youth and Families (DCYF), which would give DCYF the right to temporarily remove your child(ren) from parental care and custody and determine where and with whom your child(ren) will live. This may include placement of your child(ren) in a foster home(s). The judge may also award **legal supervision** to DCYF, which would permit your child(ren) to remain in your home, or with another parent, under the supervision of DCYF subject to further Court order.

Abuse and neglect cases under State Law RSA 169-C are intended to protect the health, safety and well-being of children and are handled through a series of Court hearings. **As a non-accused parent residing in the household, you are entitled to be represented by a Court-appointed attorney.**

II. YOUR FINANCIAL RESPONSIBILITY

Parents and other individuals chargeable by law for their child's support and necessities may be liable for expenses incurred in this abuse and neglect proceeding, including the costs of certain evaluations and placements. RSA 186-C, regarding educationally handicapped children, grants children and their parents certain rights to services from school districts, at public expense, and to appeal school district decisions regarding services to be provided.

You will be required by the Court to complete a **Financial Affidavit**. Failure to complete this Affidavit may result in a charge against you of contempt.

III. REPRESENTATION BY AN ATTORNEY

You may hire an attorney to represent you or, if you think that you cannot afford to pay an attorney and would like to apply for a Court-appointed attorney, **you should immediately contact the Court listed on the petition.** Please note that if you are appointed an attorney, you may be asked to pay back some or all of the Court-appointed attorney's fees. This will be based upon your ability to pay as determined by your completed Financial Affidavit.

IV. REQUESTING CUSTODY OF YOUR CHILD

A parent who has not been charged with abuse or neglect shall, pursuant to RSA 169-C:19-e, be afforded upon request a full Court hearing regarding the parent's ability to obtain custody of his or her child(ren). At the hearing, the parent shall be provided the opportunity to present evidence pertaining to his or her ability to provide care for the child and shall be given custody unless it is demonstrated, by a preponderance of the evidence, that the parent is otherwise unfit to perform his or her parental duties.

V. THE COURT'S APPOINTMENT OF A GUARDIAN *AD LITEM* FOR YOUR CHILD

The Court will appoint a guardian *ad litem* (GAL) for your child(ren). The GAL will report to the Court and will make a recommendation about what is in the best interest of your child(ren). You will have a chance throughout the case to talk to the GAL. Please note that you will not be asked to pay for the GAL's work.

VI. AN EXPLANATION OF THE COURT HEARINGS AND PROCESS

Outlined below is a brief overview of the Court hearings that are held when an abuse and/or neglect petition is filed. **Please read this information carefully and, if you have an attorney, review it with him or her.** An attorney will be able to provide you with more information about these hearings and the Court process.

All Court hearings and records of abuse and neglect cases are confidential. The hearings are not open to the public and only people involved in the case, or invited by the parties and approved by the Court, will be admitted to the Court hearings. *The exceptions to this are in Courts hearing abuse and neglect matters in Grafton, Rockingham, and Sullivan Counties. A pilot project is underway in these counties to assess opening hearings to the public in abuse and neglect cases absent a finding that opening the hearing or disclosure of some or all of the evidence would be contrary to the best interests of the child or would cause unreasonable harm to one or more of the parties.*

1. 24-HOUR PROTECTIVE CUSTODY HEARING

If your child(ren) has(have) already been removed from home by law enforcement, the first hearing the judge will conduct will be a 24-hour protective custody hearing. At this hearing, the judge will determine whether there is reasonable cause to believe that your child's circumstances or surroundings present an immediate danger to your child's health or life. If the judge makes such a determination, a preliminary hearing will be scheduled.

2. PRELIMINARY HEARING

If your child(ren) has(have) either been removed from your home by an ex parte, or emergency order, or have not been removed from the home, the first hearing the judge will conduct will be the preliminary hearing. At this hearing, the judge will determine whether your child's circumstances or surroundings present an immediate danger to your child's health or life or whether there is reasonable cause to believe that your child has been abused and/or neglected. If such a determination is made, the Court will schedule an adjudicatory hearing. If not, the petition will be dismissed.

3. ADJUDICATORY HEARING OR CONSENT ORDER

ADJUDICATORY HEARING	CONSENT ORDER
<p>At the adjudicatory hearing, or trial, the judge will listen to evidence from attorneys and DCYF (or individual who filed the petition). DCYF must present evidence and prove, by a preponderance of the evidence, that the abuse or neglect occurred, as stated in the petition. The standard "preponderance of the evidence" means more probable than not.</p> <p>If the judge determines that your child(ren) has(have) not been abused and/or neglected, the judge will dismiss the petition.</p> <p>If the judge determines that your child(ren) has(have) been abused or neglected, <u>a finding of "TRUE"</u> will be entered and a dispositional hearing will be scheduled. The judge will also order DCYF to compile a social study consisting of, but not limited to, the home conditions, family background, financial assessment, school record, mental and physical and social history of your family.</p>	<p>If the accused parent does not want the judge to conduct an adjudicatory hearing, or trial, the accused parent may waive this hearing and file a consent decree with the Court. If the judge approves the consent decree and it includes a finding of "TRUE," it will have the same force and effect as if the judge had entered <u>a finding of "TRUE"</u> and determined at an adjudicatory hearing that your child(ren) has(have) been abused and/or neglected.</p> <p>The judge will also order DCYF to compile a social study consisting of, but not limited to, the home conditions, family background, financial assessment, school record, mental and physical and social history of your family. You will be asked to sign the consent decree. Before you do, you should review carefully the form entitled <i>The Effect of a Consent Order on Your Constitutionally and Statutorily Protected Rights, Including Parental Rights</i> (Court form NHJB-2270-DF).</p>

IN THE EVENT THERE IS A FINDING OF "TRUE," YOU WILL HAVE TWELVE (12) MONTHS FROM THE DATE OF THE FINDING TO FULFILL YOUR RESPONSIBILITIES IN THE CORRECTIVE ACTION PLAN.

IT IS IMPORTANT THAT YOU UNDERSTAND THAT A FINDING OF "TRUE" MAY BE THE BASIS, AT A FUTURE TIME, FOR A PETITION TO TERMINATE YOUR PARENTAL RIGHTS. (SEE STATEMENT NUMBER 7 BELOW.)

4. DISPOSITIONAL HEARING

If there is a finding of "TRUE," the judge will hold a dispositional hearing within thirty (30) days of the finding of "TRUE." At this hearing, the judge will review the social study of the child's family, consider recommendations from the parties and approve a case plan that will outline what you must do to correct the conditions that led to the finding of "TRUE" that your child(ren) has(have) been abused and/or neglected.

If you want to appeal the Court's decision, you must notify the Superior Court within thirty (30) days of the final dispositional order.

Please note that at any point during this 12-month period, the judge may order that your child(ren) be removed from your care and custody on a temporary basis and placed in an out-of-home placement, including but not limited to a foster home.

Additionally, if at the end of this 12-month period your child(ren) has(have) been in an out-of-home placement for twelve or more months and **you have been ordered by the judge to correct conditions that led to the finding of abuse and/or neglect and have failed to do so**, your child may be removed from you permanently if DCYF files a petition to terminate your parental rights, pursuant to RSA 170-C, and the petition is granted.

5. REVIEW HEARING

In the nine (9) months following the finding, the judge will hold periodic review hearings. At these hearings, the judge will review the status of the case and will examine the progress that you and other parties have made with the case plan since the last hearing.

6. PERMANENCY HEARING

If there is a finding of abuse and/or neglect and your child(ren) has(have) been removed from the home and lived in an out-of-home placement for twelve or more months, the judge will hold a permanency hearing. At this hearing, the judge will make a final decision about whether, pursuant to RSA 169-C:23, the standard for return of your child has been met and if so, when your child(ren) will be returned home. If return home is not possible, the judge will determine an alternative plan for your child's permanent living arrangement, including the termination of parental rights when an adoption is contemplated, a guardianship or another planned permanent living arrangement (APPLA).

7. PETITION TO TERMINATE PARENTAL RIGHTS

In New Hampshire, **there are several ways that a parent's rights can be terminated; one of them is a finding of abuse or neglect and a parent's failure to correct the conditions that led to the finding, whether the parent is named or unnamed in the abuse and/or neglect petition.**

In the event a petition is filed to terminate your rights as a parent, you will be notified of any Court hearings. You will have the right to an attorney. If you cannot afford one, the Court will appoint one for you. A *guardian ad litem* (GAL) will be appointed for your child(ren).

At a hearing, both sides will present evidence to the Court concerning the reasons why your rights should or should not be terminated. The Court will make a decision based on the evidence it hears as well as any reports or examinations offered to the Court.

If your parental rights are terminated, you will no longer have any legal rights, privileges, duties or obligations regarding your child(ren).